

261—59.8(15E) Eligible housing business. An eligible housing business includes a housing developer, housing contractor, or nonprofit organization.

59.8(1) Requirements. A housing business shall satisfy all of the following as conditions to receiving the benefits described in this rule.

a. The housing business must build or rehabilitate either:

(1) A minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone, or

(2) One multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone.

For purposes of this subrule, rehabilitation means any project in which the costs of improvements to the property are equal to or greater than 25 percent of the acquisition cost of the property.

b. The single-family homes or dwelling units which are rehabilitated or constructed by the housing business shall include the necessary amenities. When completed and made available for occupancy, the single-family homes or dwelling units shall meet the United States Department of Housing and Urban Development's housing quality standards and local safety standards.

c. The eligible housing business shall complete its building or rehabilitation within two years from the time the business begins construction on the single-family homes and dwelling units. The failure to complete construction or rehabilitation within two years shall result in the eligible housing business's becoming ineligible and subject to the repayment requirements and penalties in the agreement described in rule 261—59.13(15E).

d. An eligible housing business shall provide the enterprise zone commission with all of the following information:

(1) The long-term plan for the proposed housing development project, including labor and infrastructure needs.

(2) Information dealing with the benefits the proposed housing development project will bring to the area.

(3) Examples of why the proposed development project should be considered a good housing development project.

(4) An affidavit that it has not, within the last five years, violated state or federal environmental and worker safety statutes, rules, and regulations or if such violations have occurred that there were mitigating circumstances or such violations did not seriously affect public health or safety or the environment.

(5) Information showing the total costs and sources of project financing that will be utilized for the new investment directly related to housing for which the business is seeking approval for a tax credit provided in subrule 59.8(2), paragraph “a.”

(6) The names of the partners if the business is a partnership, the names of the shareholders if the business is an S corporation, or the names of the members if the business is a limited liability company. The amount of each partner's, shareholder's or member's expected share of the percentage of benefits should be included.

59.8(2) Benefits. A business that qualifies under the “eligible housing business” category may be eligible to receive the following benefits:

a. Investment tax credit. An eligible housing business may claim a tax credit up to a maximum of 10 percent of the new investment which is directly related to the building or rehabilitating of a minimum of four single-family homes located in that part of a city or county in which there is a designated enterprise zone or one multiple dwelling unit building containing three or more individual dwelling units located in that part of a city or county in which there is a designated enterprise zone.

(1) New investment which is directly related to the building or rehabilitating of homes includes, but is not limited to, the following costs: land, surveying, architectural services, building permits, inspections, interest on a construction loan, building materials, roofing, plumbing materials, electrical materials, amounts paid to subcontractors for labor and material provided, concrete, labor, landscaping, appliances normally provided with a new home, heating and cooling equipment, millwork, drywall and drywall materials, nails, bolts, screws, and floor coverings.

(2) New investment does not include the machinery, equipment, or hand or power tools necessary to build or rehabilitate homes.

(3) In determining the amount of tax credits to be awarded to a project, the department shall not include the portion of the project cost financed through federal, state, and local government tax credits, grants, and forgivable loans.

(4) The tax credit shall not exceed 10 percent of \$140,000 for each home or individual unit in a multiple dwelling unit building.

(5) This tax credit may be used to reduce the tax liability imposed under Iowa Code chapter 422, division II, III, or V, or chapter 432. The tax credit may be taken on the tax return for the tax year in which the project is certified for occupancy. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. If the business is a partnership, S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust, except in projects using low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the housing development. The approved housing business using federal Section 42 tax credits may designate each owner's or participant's share or percentage of the benefits.

(6) The department shall issue tax credit certificates once per year or when the department determines it to be necessary and appropriate to approve housing businesses eligible to receive the housing enterprise zone tax credit. The eligible housing business may claim the tax credit by attaching the certificate to the business's tax return for the year in which the housing units are completed.

(7) If the approved housing business is using federal low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the project, the department shall issue a transferable tax credit certificate to the eligible housing business. The amount of any replacement tax credit certificates requested by the housing business will be based on documentation provided to the department by the applicant or by the Iowa finance authority and should be consistent with the amount contained in the project's 8609 CPA Certification on file with the Iowa finance authority.

(8) Housing enterprise zone tax credit certificates issued to eligible housing businesses also using low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the project may be transferred to any person. Within 90 days of the sale of the housing enterprise zone tax credit, the eligible housing business must return the tax credit certificate issued by the department so that replacement tax credit certificate(s) can be issued. The original tax credit certificate shall be accompanied by a written statement from the eligible housing business which contains the names, tax identification numbers, and addresses of the taxpayers to which the tax credits are being transferred, along with the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. Within 30 days of receiving the eligible housing business's tax credit certificate and written statement, the department shall issue replacement tax credit certificate(s).

(9) The tax credit certificate shall also be transferable if the housing development is located in a brownfield site as defined in Iowa Code section 15.291 or if the housing development is located in a blighted area as defined in Iowa Code section 403.17. Not more than \$3 million worth of tax credits for housing developments that are located in a brownfield site as defined in Iowa Code section 15.291 or housing developments located in a blighted area as defined in Iowa Code section 403.17 shall be transferred in a calendar year. The \$3 million annual limit does not apply to tax credits awarded to an eligible business having low-income housing tax credits authorized under Section 42 of the Internal Revenue Code to assist in the financing of the housing development. The department may approve an application for tax credit certificates for transfer from an eligible housing business located in a brownfield site as defined in Iowa Code section 15.291 or in a blighted area as defined in Iowa Code section 403.17 that would result in the issuance of more than \$3 million of tax credit certificates for transfer, provided that the department, through negotiation with the eligible housing business, allocates those tax credit certificates for transfer over more than one calendar year. The department shall not

issue more than \$1,500,000 in tax credit certificates for transfer to any one eligible housing business located in a brownfield site as defined in Iowa Code section 15.291 or in a blighted area as defined in Iowa Code section 403.17. If \$3 million in tax credit certificates for transfer have not been issued at the end of a calendar year, the remaining tax credit certificates for transfer may be issued at the end of a calendar year, the remaining tax credit certificates for transfer may be issued in advance to an eligible housing business scheduled to receive a tax credit certificate for transfer in a later calendar year. Anytime the department issues a tax credit certificate for transfer which has not been allocated at the end of a calendar year, the department may prorate the remaining certificates to more than one eligible applicant. If the entire \$3 million of tax credit certificates for transfer is not issued in a given calendar year, the remaining amount may be carried over to a succeeding calendar year.

(10) The department will process requests for transfer of the tax credit and issuance of the replacement tax credit certificates for housing developments that are located in brownfield sites as defined in Iowa Code section 15.291 or blighted areas as defined in Iowa Code section 403.17 at the time of application or in writing each calendar year. Eligible requests for transfer of these credits will be considered in the order they are received. The transfer of the credit by replacement tax credit certificate will be limited to \$3 million per calendar year and \$1,500,000 per development per calendar year. Requests received after the \$3 million limit is reached will be considered for the following year's allocation after any previously approved requests or negotiated allocations of the credit remaining from the current or previous years have been processed. When housing enterprise zone benefits are awarded to one housing business in an amount exceeding the annual transferable limit of \$1,500,000 per year, the housing business may negotiate with the department to receive the tax credit benefits from future years' limits when possible. These limits do not apply to housing tax credits authorized by Section 42 of the Internal Revenue Code or to other housing enterprise zone developments not located in brownfield sites as defined in Iowa Code section 15.291 or blighted areas as defined in Iowa Code section 403.17.

b. Sales, service, and use tax refund. An approved housing business shall receive a sales, service, and use tax refund for taxes paid by an eligible housing business including an eligible housing business acting as a contractor or subcontractor, as provided in Iowa Code section 15.331A.

59.8(3) *Application submittal and review.* An eligible housing business shall first submit an application to the commission for approval. The commission shall forward applications that it has approved to receive benefits and assistance to the department for final review and approval.